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SUBJECT: BIOTECH: OVER PRESIDENT'S OBJECTIONS PARLIAMENT PASSES LAW REQUIRING STORES TO SEGREGATE BIOTECH PRODUCTS

REFS: (A) NICOSIA 490 (B) NICOSIA 478 (C) NICOSIA 400

(U) This cable is sensitive but unclassified. Please protect accordingly.

¶1. (SBU) Summary. On July 12, the Cypriot parliament ignored President Papadopoulos's opposition and passed 42-0 a law requiring all stores to place products with biotech content on separate shelves. The President had earlier refused to sign the bill and returned it to the parliament for a second reading, arguing that it was probably incompatible with the EU acquis. The President now has fifteen days to sign the bill into law or send it to the Supreme Court for a ruling on its constitutionality. Like Cyprus's ban of biotech biofuels (ref B), the law's immediate effects are likely to be more symbolic than actual, should it go into force. Cyprus does not keep figures on the import or production of biotech products, but it does not appear to be a great deal, and most biotech products seem to be used for animal feed rather than human consumption. There is no pro-biotech lobby in Cyprus, and Cypriot politicians see support of anti-biotech measures as a cost-free way of winning votes. Barring a strong response from the European Commission, the bill is likely to encourage further anti-biotech measures in Cyprus and possibly inspire other larger, more significant EU markets to take similar actions. End summary.

Legislation for Separate Shelving of Biotech products

¶2. (SBU) On July 12, the House of Representatives passed a new law requiring the in-store separation of foodstuffs containing "genetically modified organisms" (GMOs) from conventional foodstuffs. The legislation, the first of its kind in a European Union member state, mandates that any food product with greater than 0.9 percent GMO content must be placed on separate shelves clearly labeled in Greek, Turkish and English. The legislation covers the sale of food with biotech content at all stores, from kiosks to supermarkets. The law allows a maximum fine of CYP 3,000 (USD 6,900) and up to six months imprisonment for repeat offenders. (For excerpts from the bill, please see paragraph 9.) Despite opposition from the president, the bill passed 42-0, with all parties voting in

favor except for the President's Party, DIKO, which reportedly chose to abstain. In putting forward the bill, the Green Party argued that current EU labeling requirements were inadequate and confusing to customers and that only segregation would ensure consumers were truly being given a choice.

¶3. (SBU) The Green Party had introduced an earlier version of the bill to parliament in 2005. Although the parliamentary Environment Committee had unanimously supported the bill, it was withdrawn before a full plenary vote, after we raised concerns that it might be incompatible with Cyprus's obligations as a member of the WTO and EU. The parliament subsequently sent the text to the European Commission, asking for its advice and a derogation if necessary. Although the Commission rejected this request on procedural grounds and avoided any comment on the law's compatibility with the acquis, the Cypriot press reported this as EU opposition.

¶4. (SBU) The Green Party resurrected the draft bill, with several significant changes (including using the EU definition of GMO products) after current Agricultural Minister Photiou publicly backed the bill on June 4. Photiou, who has significant political ambitions, also publicly pledged (ref A) to:

-- find ways to further restrict biotech in Cyprus compatible with the acquis;

-- introduce stricter implementation of existing EU and national biotech legislation;

-- work with other like-minded EU countries to make EU biotech policy even more restrictive; and

-- prepare a report on coexistence in Cyprus designed to "scientifically" justify a total ban on cultivation of biotech plants.

¶5. (SBU) Photiou's comments came just two weeks after the Minister had told the Ambassador that Cyprus would respect EU biotech policy and appeared to promise to tone down his anti-biotech rhetoric.

¶6. (SBU) Subsequently, on June 14, the parliament unanimously passed the draft, only to have the President send it back to parliament for a second reading on procedural and substantive grounds. (Note: Under the Cypriot Constitution, the President can only veto laws directly affecting national security. He can, however, force the parliament to reconsider a bill by requiring a second reading. End note.) Specifically, the President raised concerns that the bill might be incompatible with the EU acquis and suggested that the parliamentary Health Committee rather than the Environment Committee should have had jurisdiction over the bill. Consequently, the President recommended that the Health Committee send the bill through the Ministry of Health to the European Commission for its advice. If the Commission failed to respond within three months, the President promised to sign the bill.

¶7. (SBU) In May, the President had also sent a biotech-related bill back to the parliament for a second reading when the parliament removed text that would have overturned a 2005 ban on biotech biofuels despite communications from the Commission threatening possible infringement processing. In this case as well, parliament stuck to its guns and passed the bill over the President's (and EC's) objections (Ref. B). While the fear of an EU infringement proceeding still appears to carry some weight with the GOC, it no longer seems to have any influence on the parliament, at least not when it comes to measures further restricting the use of biotech.

¶8. (SBU) The President now has fifteen days within which to sign the biotech segregation bill into law or to send it to the Supreme Court for a ruling on its constitutionality. There is no known precedent for a bill being sent to the Supreme Court on the grounds that it is unconstitutional because it may be incompatible with the acquis. Thus, it is unclear how the Supreme Court might respond, if asked. It is also not yet clear how the President may react. Our working level contacts at the Ministries of Health and Agriculture seem convinced that the bill and the acquis are incompatible. Given the lack of any public support for biotech in Cyprus, however, as well

as the fact that the President is facing reelection in February for which he is seeking Green Party support, the President appears likely to sign the bill into law.

¶9. (SBU) Please see below key excerpts from the biotech segregation bill passed July 12:

Law Amending the Food (Control and Selling) Legislation

[Excerpt]

The basic Food (Control and Selling) Legislation of 1996-2006 is hereby amended with the addition of the following article (Article 22):

(1) Handling of GMO Products. In each retail shop, GMO products available for sale must be placed in a specially-designated area, on separate shelves from non-GMO products.

(2) (a) Shelves bearing GMO foodstuffs must have a clearly-visible sign stating clearly in Greek, Turkish and English "Genetically Modified Products."

(. . .)

(3) Any shop owner failing to comply with the provisions of this article is guilty of a penal offense, subject to a fine not exceeding CYP 3,000 or, in the case of repeat offenders, to a fine not exceeding CYP 3,000, imprisonment not exceeding six months or both penalties together.

(4) The definition of "genetically modified foodstuff" for the purposes of this article means a product so described under the European Parliament and Council's decision on GM food- and feed-stuffs of September 22, 2003.

"Retail shop" means any shop selling various kinds of products.

"Shop owner" means any physical or legal person who has the responsibility for the shop or who owns the shop, and includes the owner or main shareholder, director, general manager or any other person or persons having the control of the shop and the authority to take decisions affecting the operation of the shop.

[End Excerpt]

Comment

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¶10. (SBU) We have been unable to find any domestic support for biotech on Cyprus - or at least anyone willing to publicly stand up to the small but vocal anti-biotech campaigners who dominate all debate on the subject. Our efforts to create a more balanced discussion and to prevent passage of new anti-biotech measures that could damage U.S. commercial interests are generally dismissed as self-interested, outside pressure. While we have made some in-roads at the government working level and stalled passage of the segregation bill for two years, Cypriot politicians continue to see introducing further restrictions on anti-biotech measures as a cost free way to win votes, partially because it allows them to be seen standing up to U.S. pressure. Our best potential allies would appear to be the European Commission and pro-biotech European NGOs and organizations that have more leverage and may be seen as more objective. Nevertheless, unless the EC acts swiftly to impose real penalties on Cyprus for failing to adhere to EU biotech policy, we are likely to continue to see the Cypriot parliament pass more and more laws restricting biotech's use. The Green Party has already announced it plans to table a bill this fall declaring Cyprus a "GMO-free zone." Cyprus may be a small market with limited imports of U.S. agricultural products. Nevertheless, it has the potential to inspire other more significant EU markets to impose similar biotech restrictions, especially if its anti-biotech measures are left largely unchallenged. End Comment.

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